

84-180-A PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a variance from Section 238.2 to allow a rear yard setback of 2 feet and side in lieu of the required 30' Sec. 238.1 (303.2) to permit a front yard setback of 25' in lieu of the required average of 47.5'

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

Adjoining owner is legal owner and approves of subject variance
Irregular shape of lot requires variance
Development of lot will be low density use

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: URBAN DESIGN & DEVELOPMENT CORPORATION
(Type or Print Name)
Signature: *Bridget M. Quinn*
Address: 1310 Charles Center South
Baltimore, MD 21201
City and State
Attorney for Petitioner: Brian A. Goldman, Esquire
(Type or Print Name)
Signature: *B. A. Goldman*
Address: 36 S. Charles Street
Baltimore, MD 21201
City and State
Attorney's Telephone No.: (202) 7-5006

Legal Owner(s): Prospect Hill Cemetery, Inc.
(Type or Print Name)
Signature: *Charles Budreski*
Address: c/o Phineas S. Dixon, Esquire 747-2800
908 Frederick Road
Catonsville, MD 21228
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted:
Phineas S. Dixon, Esquire
908 Frederick Road
Catonsville, MD 21228
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of December 1983, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 17th day of January, 1984, at 10:30 o'clock A.M.

Carl Jablon
Zoning Commissioner of Baltimore County.
(over)

Brian A. Goldman, Esquire
36 S. Charles Street
Baltimore, Maryland 21201

cc: CDE Engineering Corp.
702 N. Crain Highway
Glen Burnie, Md. 21060

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 6th day of December, 1983.

ARNOLD JABLON
Zoning Commissioner

Petitioner: Prospect Hill Cemetery, Inc. Received by: *Nicholas B. Commodari*
Petitioner's Attorney: Brian A. Goldman
Nicholas B. Commodari
Chairman, Zoning Plans Advisory Committee

RE: PETITION FOR VARIANCES : BEFORE THE ZONING COMMISSIONER
E/S York Rd., 469' S of : OF BALTIMORE COUNTY
Lambourne Rd., 9th District
PROSPECT HILL CEMETERY, : Case No. 84-180-A
INC., Petitioner

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

John W. Hession III
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, MD 21204
494-2135

I HEREBY CERTIFY that on this 30th day of December, 1983, a copy of the foregoing Order was mailed to Brian A. Goldman, Esquire, 36 S. Charles Street, Baltimore, MD 21201, Attorney for Petitioner; and Bridget M. Quinn, Urban Design & Development Corp., 1910 Charles Center S., Baltimore, MD 21201, Contract Purchaser.

John W. Hession III
John W. Hession, III

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner Date: January 9, 1984
Norman E. Gerber, Director
FROM: Office of Planning and Zoning
Prospect Hill Cemetery, Inc.
SUBJECT: 84-180-A

This office is opposed to the granting of the subject variance. The construction of the office building as proposed, coupled with the severe topography on-site makes the advisability of permitting the larger building coverage highly questionable. Further, in the absence of a grading study, the proposed development as submitted cannot be fully reviewed.

In addition to the above comment, the following specific items should be as noted:

1. A CRG meeting is required.
2. An overall subdivision showing the cemetery must be submitted; provision of access to the cemetery must be shown.
3. The six parking spaces in the rear portion of the property are too far from the building to be convenient.
4. Details of landscaping should be provided.
5. A grading plan should particularly show the grades both for York Road and the site in proximity to the access point.

NEG/JGH/sf

Norman E. Gerber
Norman E. Gerber
Office of Planning and Zoning

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

January 10, 1984

cc: Nicholas B. Commodari
Chairman

Brian A. Goldman, Esquire
36 S. Charles Street
Baltimore, Maryland 21201

RE: Case No. 84-180-A (Item No. 96)
Petitioner - Prospect Hill Cemetery, Inc.
Variance Petition

Dear Mr. Goldman:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your client's proposal to construct a two-story office building on this site, closer to the front, side and rear property lines, this hearing is required.

In view of the fact that the revised site plan, dated December 2, 1983, satisfied Mr. Mike Flanagan, Department of Traffic Engineering, I scheduled this petition for a hearing. Mr. George Wittman, State Highway Administration, has given his verbal approval of said plan. However, he wanted to review it in the field again and then he will forward his revised comments.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,
Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman, Zoning Plans Advisory Committee

NBC:mh
Enclosures

cc: CDE Engineering Corp.
702 N. Crain Highway
Glen Burnie, Maryland 21061



BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

November 22, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #96 (1983-1984)
Property Owner: Prospect Hill Cemetery, Inc.
N/E/S York Rd. 469.01' S/E Lambourne Rd.
Acres: 0.423 District: 9th

Dear Mr. Jablon:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

York Road (Md. 45) is a State Road. All improvements, intersections, entrances, drainage requirements and construction affecting a State road right-of-way are subject to the standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Water and Sanitary Sewer:

There are 10 and 20-inch public water mains and 8-inch public sanitary sewerage in York Road.

Very truly yours,
Robert A. Minton
ROBERT A. MINTON, P.E., Chief
Bureau of Public Services

RAM:EM4:PWR:ss

N-W Key Sheet
39 NE 3 Pos. Sheet
NE 10 A Topo
70 A Tax Map



Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell
Secretary
M. J. Caltrider
Administrator

November 7, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Att: Mr. N. Commodari

Re: ZAC Meeting of 10-25-83
TOWSON
Property Owner: Prospect Hill Cemetery, Inc.
Location: NE/S York Road, Route 45, 469.01' S/E Lambourne Road
Existing Zoning: B.R-GSA
Proposed Zoning: Variance to permit a rear yard setback of 5' in lieu of the required 30' and a side yard setback of 2' in lieu of the required 30'.
Acres: 0.423
District: 9th

Dear Mr. Jablon:

On review of the site plan of October 6, 1983 and field inspection, the State Highway Administration will require the plan to be revised.

The revised plan must show all existing improvements along the frontage of the site.

This will include the existing centerline of York Road (Route 45) existing face of curb on each side of York Road with distance from centerline and all utility poles and existing access.

Upon receipt of the revised plan, additional comments will be forthcoming.

CL:GTMaw

cc: Mr. J. Ogle

Very truly yours,
Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

My telephone number is _____ By: George Wittman
383-7555 Baltimore Metro - 565-0451 C.C. Metro - 1-800-492-5002 Statewide Toll Free
P.O. Box 717 707 North Calvert St., Baltimore, Maryland 21203-0717

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit



Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell
Secretary
Mr. S. Caltrider
Administrator

January 11, 1984

Mr. Arnold Jablon
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Attention: Mr. N. Commodari

Re: ZAC Meeting of 10-25-83
ITEM: #96.
Property Owner: Prospect Hill Cemetery, Inc.
Location: NE/S York Rd.
Route 43, 469.01' S/E
Lambourne Road
Existing Zoning: B.R.-CSA
Proposed Zoning: Variance to permit a rear yard setback of 5' in lieu of the required 30' and a side yard setback of 2' in lieu of the required 30'.
Acres: 0.423
District: 9th

Dear Mr. Jablon:

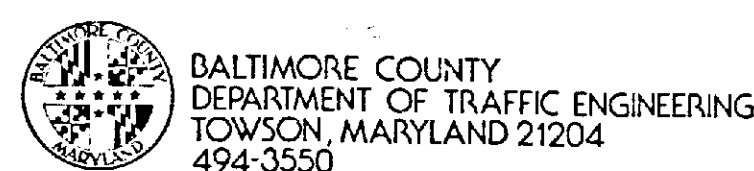
On review of the revised site plan of December 5, 1983 and field inspection, the State Highway Administration will require the plan to be revised.

The revised plan must show a 30' radius return entrance with 10' radii.

The existing bituminous curb south of the reconstructed entrance must be replaced with State Highway Administration Type "A" concrete curb and gutter constructed along the existing curb alignment, 23' east of the centerline of York Road to provide a 48' closed section (curb to curb).

My telephone number is (301) 659-1350

Typewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-425-5082 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203-0717



STEPHEN E. COLLINS
DIRECTOR

November 21, 1983

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 96 -ZAC- Meeting of October 25, 1983
Property Owner: Prospect Hill Cemetery, Inc.
Location: NE/S York Road 469.01' S/E Lambourne Road
Existing Zoning: B.R.-CSA
Proposed Zoning: Variance to permit a rear yard setback of 5' in lieu of the required 30' and a side yard setback of 2' in lieu of the required 30'.

Acres: 0.423
District: 9th

Dear Mr. Jablon:

This site plan should be revised to show 5-lane road section on York Road; a deceleration lane along the frontage of the site, curb, gutter, and sidewalk.

A grading plan will be required for approval of the entrance.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineering Assoc. II

MSF/ccm

BALTIMORE COUNTY DEPARTMENT OF HEALTH

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 96 - Zoning Advisory Committee Meeting of Oct. 25, 1983

Property Owner: Prospect Hill Cemetery, Inc.

Location: NE/S York Road District 9

Water Supply public Sewage Disposal public

COMMENTS ARE AS FOLLOWS:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.
- (x) Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.
- () A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support Services.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

SS 20 1082 (1)

Mr. A. Jablon

-2-

January 11, 1984

It is requested the plan be revised prior to a hearing date. All work within the State Highway Administration Right of Way must be through permit with the posting of a \$7,000.00 bond to guarantee construction.

Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:maw

Attachment

cc: Mr. J. Ogile
CDH Engineering Corp.



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

November 29, 1983

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Prospect Hill Cemetery, Inc.

Location: NE/S York Road 469.01' S/E Lambourne Road

Item No.: 96

Zoning Agenda: Meeting of October 25, 1983

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road, in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: *Paul H. Reincke* Planning Section
Charles E. Burman Fire Prevention Bureau
Special Inspection Division

/mb



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALEM JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 96 Zoning Advisory Committee Meeting are as follows:

Property Owner: Prospect Hill Cemetery, Inc.
Location: NE/S York Road 469.01' S/E Lambourne Road
Existing Zoning: B.R. - CSA
Proposed Zoning: Variance to permit a rear yard setback of 5' in lieu of the required 30' and a side yard setback of 2' in lieu of the required 30'.

Acres: 0.423
District: 9th.

The items checked below are applicable:

- X A. All structures shall conform to the Baltimore County Building Code 1981/Council Bill 4-82 State of Maryland Code for the Handicapped and Aged; and other applicable codes.
- X B. A building & other _____ miscellaneous _____ permits shall be required before beginning construction.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required. Non-reproduced seals and signatures are required on Plans and Technical Data.
- X D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- X E. An exterior wall erected within 6'0" for Commercial uses or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistant construction, no openings permitted within 3'0" of lot lines. A fire wall is required if construction is on the lot line, see Table 401, line 2, Section 407 and Table 400, also Section 903.2. See also Section 411.0 for opening _____ protective.
- F. Requested variance appears to conflict with the Baltimore County Building Code, Section/s _____
- G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401.
- X I. Comments - Show handicapped parking sign, ramp, curb cuts, building access, etc. in compliance with State Code. Problems painted on parking surface is not acceptable for parking. Location map has not been provided.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 N. Chesapeake Ave., Towson.

Very truly yours,

Charles E. Burman
Charles E. Burman, Chief
Plans Review

CEB:es

Zoning Item # 96
Page 2

- () Any existing underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled.
- () Soil percolation tests have been conducted.
 - { } The results are valid until _____
 - { } Revised plans must be submitted prior to approval of the percolation tests.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
 - { } shall be valid until _____
 - { } is not acceptable and must be retested. This must be accomplished prior to conveyance of property or approval of Building Permit Applications.
- () All roads and parking areas should be surfaced with a dustless, bonding material.
- () No health hazards are anticipated.
- (x) Others Prior to raising of existing structure, applicant should contact the Bureau of Environmental Services, Solid & Hazardous Waste Mgmt. Section at 494-3761, regarding removal and disposal of potentially hazardous materials. IF submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted.

Ian J. Forrest
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

SS 20 1080 (2)

IN RE: PETITION FOR VARIANCES
E/S of York Rd., 469' S of
Lambourne Rd. (701 York Rd.)
9th Election District
Prospect Hill Cemetery, Inc.
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-180-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein, by its contract purchaser, Urban Design and Development Corporation, request variances to permit rear and side yard setbacks of 2 feet instead of the required 30 feet and a front yard setback of 25 feet instead of the required 47.5 feet. The purpose of the requests is to develop the property in question by constructing an office building, as is more fully described on Petitioner's Exhibit 4.

The contract purchaser appeared, by counsel, who is an officer of the corporation. Testifying for the purchaser were Charles Schwinbart, who is an agent of the Petitioner (see Petitioner's Exhibit 2) and Kenneth Colbert, a registered civil engineer. Numerous Protestants appeared. One, Mr. S. James Campbell, represented by counsel, and another, Dr. Robert Parker, who took part in the proceeding. The other Protestants agreed with the testimony of Mr. Campbell and Dr. Parker. Testimony indicated that the site in question is zoned B.R.-C.S.A. The Petitioner owns a tract of land, approximately 6 1/2 acres, that is a viable and active cemetery. The Protestants, loved ones of people buried there, are concerned and worried about maintenance and access. The contract purchaser has entered into an agreement with the Petitioner to purchase approximately 0.4 of an acre bordering York Road which would be developed with a 2 story office building. See Petitioner's Exhibit 3. The site being purchased has no graves but, apparently, does possess the only egress from the cemetery. The site being sold is irregularly shaped, contains a steep slope, from about 30% near York Road to about 12%, and a storage shed

presently located 25 feet from York Road, which is not being used. The Petitioner is presently having financial problems and is facing foreclosure on the tract. If the sale is consummated with the contract purchaser for the site described on Petitioner's Exhibit 4, the moneys will be used to pay the mortgage and to repair and maintain the cemetery.

The office building proposed would require a rear yard setback of 2 feet instead of the required 30 feet, a side yard setback of 2 feet instead of 30 feet, and a front yard setback of 25 feet instead of the required average of 47.5 feet. If a building were to adhere to all the setback requirements, it could only be approximately 1,300 square feet in size. The entire lot is 18,424 square feet. As proposed, the building would be 3,345 square feet per floor, a total of 6,690 square feet, 18 parking spaces would be required and 27 would be provided.

The site will require extensive grading and removal of soil in order to make it buildable. If the variances were not allowed, it would be a practical difficulty, according to Mr. Colbert, inasmuch as the site is so unusual due to its shape and topography.

Mr. Colbert pointed out that other buildings in the immediate vicinity do not meet the required setbacks. See Petitioner's Exhibit 5. Also, the entire adjacent area is commercial, and the proposed building, notwithstanding the variances needed, would be consistent with and conform to the area. Mr. Colbert testified that, in professional opinion, there would be no adverse impact on the health, safety, general welfare of the neighborhood, and, if granted, the variances would be in the spirit and intent of the Regulations. The Protestants, conversely, argued that the public welfare would suffer if the variances were to be granted. The office building would block off the exit road to the cemetery use and would interrupt and prevent the use of the property as a cemetery.

(2)

The present ingress to the cemetery is further down York Road by way of a single lane gravel road which circulates in a semicircle back to York Road through the site in question here. The road is too narrow to allow two cars abreast without striking grave sites which exist on both sides of the road. If the egress was blocked, there would then exist no way to circulate as there is no room to turn around nor space to allow cars to move side by side. The Protestants argue that this would prevent funeral processions from using the cemetery and cause disruption to visitors, thereby limiting the property from its intended use. They also are concerned by the Petitioner's obvious lack of care to maintain and preserve the cemetery. Therefore, they do not want the variances granted. Furthermore, they are upset that the Department of Traffic Engineering did not consider the traffic needs of the cemetery when approving the layout of the office building.

The Petitioner seeks relief from Sections 238.2 and 238.1 (303.2), pursuant to Section 307, of the Baltimore County Zoning Regulations (BCZR).

An area variance may be granted where strict application of the zoning regulation to the Petitioner and his property would cause practical difficulty.

McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

(3)

It is clear from the testimony that if the variances were granted, such use as proposed would not be contrary to the spirit of the Regulations and would not result in substantial detriment to the public good.

The concerns raised by the Protestants are serious and merit strong consideration. However, they might be more appropriately resolved in an equity court where the contractual obligations of the parties can be explored than here where the subject is limited by law.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variances were not granted. It has been established that the requirement the Petitioner seeks relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 24th day of January, 1984, that the Petition for Variances to permit rear and side yard setbacks of 2 feet instead of the required 30 feet and a front yard setback of 25 feet instead of the required 47.5 feet be and is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. The Petitioner cannot receive a building permit until a revised and completed site plan is presented to the Office of Zoning which will show the ingress and egress for those using the cemetery and how traffic will circulate through the cemetery.
2. The Petitioner must submit for approval a detailed landscaping plan to the Office of Current Planning.

[Signature]
Zoning Commissioner of
Baltimore County

(4)

CDH ENGINEERING CORPORATION

702 N. CRAIN HIGHWAY
GLEN BURNIE, MARYLAND 21061

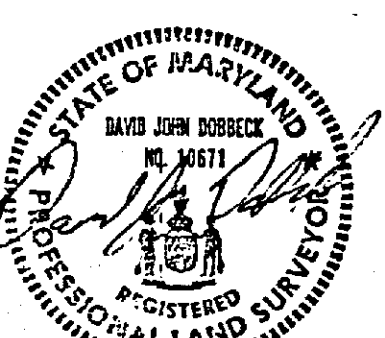
DESCRIPTION

Beginning for the same at a point on the northeasterly right of way line of York Road, 66 feet wide, said point being S 31° 46' E a distance of 469.01 feet from the intersection formed by the northeasterly right of way line of York Road with the southeasterly line of Lambourne Road, thence leaving York Road and running the nine (9) following courses and distances: (1) N 51° 38' E a distance of 249.57 feet (2) S 16° 17' 48" W a distance of 93.56 feet (3) N 73° 42' 12" W a distance of 31.40 feet (4) S 32° 07' 44" W a distance of 44.86 feet (5) S 05° 26' 00" E a distance of 47.60 feet (6) S 72° 13' 21" E a distance of 21.00 feet (7) S 14° 29' 37" W a distance of 84.55 feet (8) N 70° 33' 36" W a distance of 31.12 feet and (9) S 58° 14' 00" W a distance of 28.98 feet to the aforementioned northeasterly right of way line of York Road, thence extending along said right of way line N 31° 46' 00" W a distance of 123.07 feet to the place of beginning.

Containing 18,424 square feet or 0.423 of an acre of land.

DJD/kjc

October 10, 1983



Plan #496

REVISED PLANS

CONSULTING ENGINEERS • SURVEYORS OCT 24 1983
(301) 787-1111

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

The Honorable Barbara F. Bachur
County Council of Baltimore County
Arnold Jablon
FROM: Zoning Commissioner
SUBJECT: Prospect Hill Cemetery

Date: January 31, 1984

As per your letter of January 13, 1984, an inspection of the above referenced location on January 26, 1984 did not reveal a violation of the zoning regulations.

For your information, a variance was granted for a two-story office building on a parcel sold by the cemetery bordering York Road, next to Rustlers.

AJ:eoh
cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

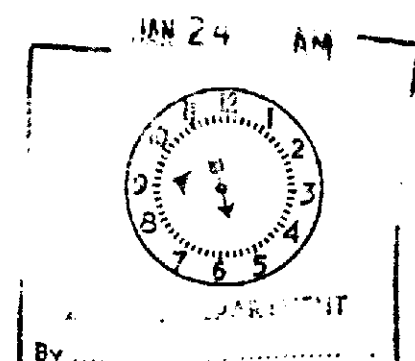
TO: Arnold Jablon
Zoning Commissioner
FROM: Barbara F. Bachur
Councilwoman, Fourth District
SUBJECT: Conditions at Prospect Hill Cemetery

Date: January 12, 1984

One of my constituents has contacted my office to register a complaint about the condition of the Prospect Hill Cemetery on York Road near the Investment Building.

Please investigate this situation and inform me of your findings and actions.

BFB:dp
cc: Mr. Milton Schuller
115 Willow Avenue 21204



MUHL & DIXON, P.A.

ATTORNEYS & COUNSELLORS AT LAW
808 FREDERICK ROAD
CATONSVILLE, MARYLAND 21038

January 18, 1984

Zoning Commission of Baltimore County
111 W. Chesapeake Avenue
Towson, Maryland, 21204

Att: Arnold Jablon,
Zoning Commissioner

Re: Petition for Variance
Prospect Hill Cemetery, Inc.
Case No. 84-180A

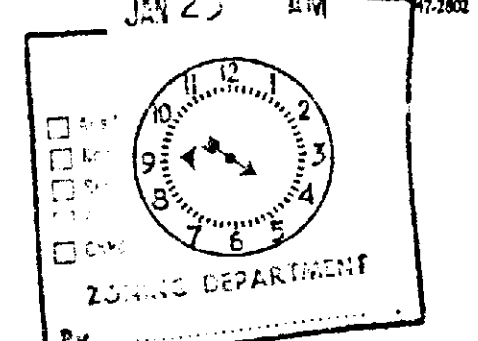
Dear Zoning Commissioner:

Kindly be advised that I represent the president and major stockholder of Prospect Hill Cemetery, Inc., Charles Budreski who has authorized me to indicate to you several things regarding the present road which I understand will be terminated at one end should the present Petition be approved.

First, the cemetery was initially started in the mid 1800's and the present roads through the cemetery is of tar and chip construction, extremely narrow and not conducive to the ingress and egress of people from vehicles who would in fact be required to walk upon the grass along that narrow roadway if parking were allowed.

If the Zoning is approved Mr. Budreski had planned on a parking and turnaround area at the top of the hill in order to close off the lower entrance; he had attempted to close off the lower entrance on several occasions because of the ingress and egress of young people within the area who use the back side of the cemetery as a gathering place for parties, after hours and when there is no supervision.

The parking and turnaround area will allow for private cars with the hearse proceeding along the aforementioned narrow road and which would allow the procession to walk along the road rather than over the grass and graves.



1/26/84 (12:23 PM) Observed NO violations of any kind after inspecting the entire premises! 28

-2-
Because of the total commercialization of the immediate area, few persons desire to be interred at Prospect Hill. Several have requested removal.

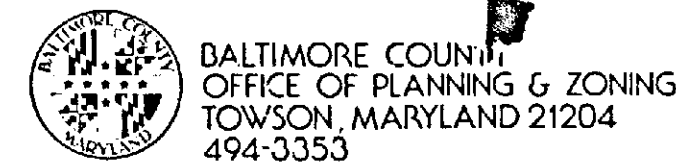
If there are any questions you have of me, please feel free to call upon me.

Very truly yours,

Phineas S. Dixon
Phineas S. Dixon

PSD/nwf

cc: Brian A. Goldman, Esq.
Suite 1910 Charles Center South
36 S. Charles Street
Baltimore, Md. 21201-3130



ARNOLD JABLON
ZONING COMMISSIONER

January 24, 1984

Brian A. Goldman, Esquire
36 South Charles Street
Baltimore, Maryland 21201

RE: Petition for Variances
E/S of York Rd., 469' S of Lambourne
Rd. (701 York Rd.) - 9th Election
District
Prospect Hill Cemetery, Inc. - Petitioner
No. 84-180-A (Item No. 96)

Dear Mr. Goldman:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

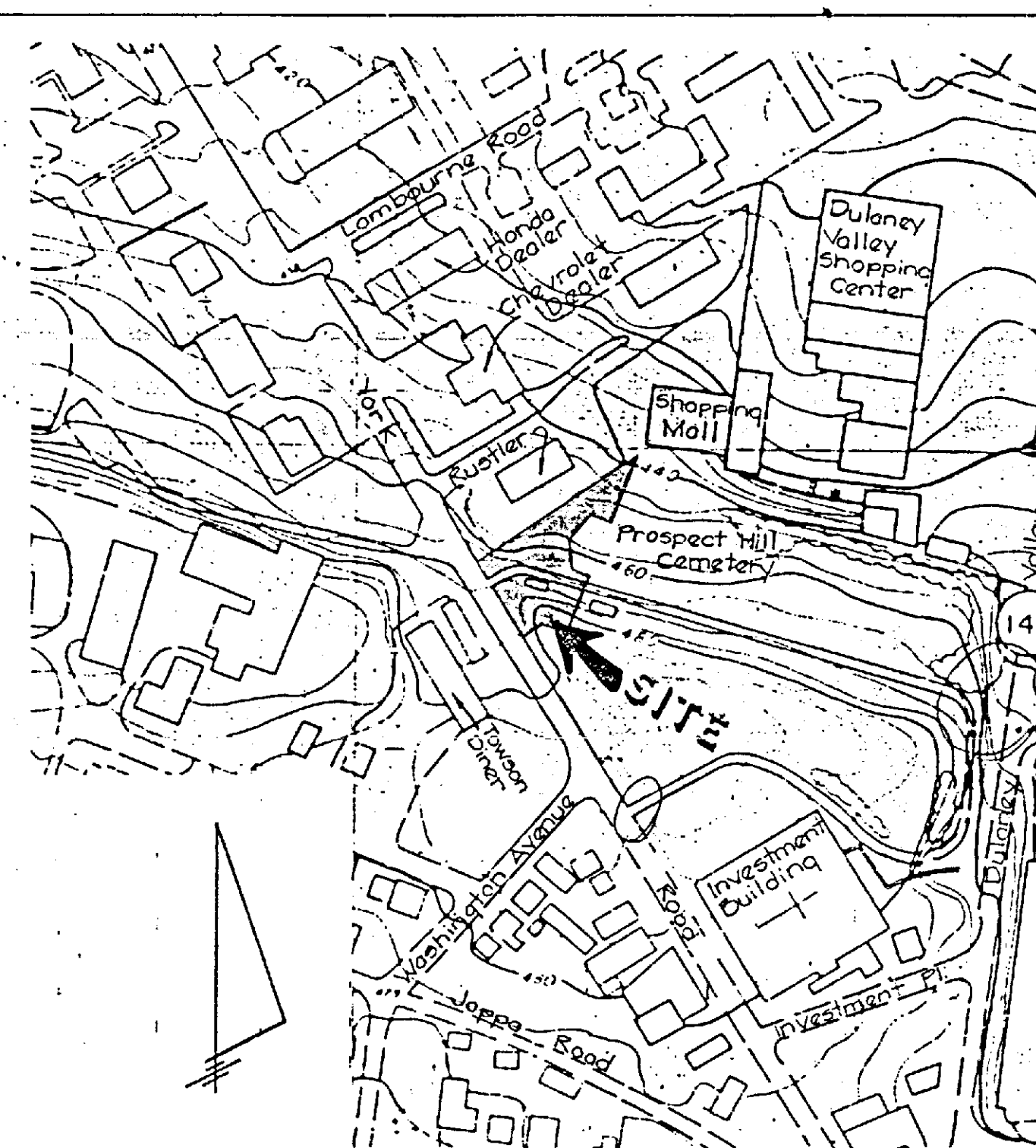
AJ/mc

Attachments

cc: Dr. Robert Parker
620 Wilton Road
Towson, Maryland 21204

Milton R. Smith, Jr., Esquire
Suite 600
102 West Pennsylvania Avenue
Towson, Maryland 21204

People's Counsel



CDH ENGINEERING CORPORATION
702 N. Crain Highway
Glen Burnie, Maryland 21061
(301) 767-1111

Location Plan
Proposed Retail Store @
701 YORK ROAD
9th Election District Baltimore Co., Md.
Scale: 1"=200' October 6, 1983

in the case of default or breach by BUYER under this Agreement of Sale, any interest thereon shall inure to the benefit of BUYER. In the event that this Agreement of Sale is cancelled or terminated as hereinafter provided, then said Escrow Agent shall return to BUYER the Deposit plus interest paid to it undiminished, without charge or set-off.

2. BUYER'S Right to Investigate and Cancel

BUYER shall have a period of one hundred eighty (180) days following the date of SELLER'S execution of this Agreement of Sale in which to fully examine and investigate the Premises and apply for subdivision of Premises, a building permit, and utility services, to satisfy itself that it is useable for the BUYER'S purposes and that BUYER can obtain the required building permits, sewage permits and utility connections for the construction of a six thousand (6,000) square foot one story strip shopping center. If BUYER shall determine, in its sole discretion and judgment, that Premises is not suitable or that building permits, or sewage or utilities are not available, BUYER shall have the right during this one hundred eighty (180) day period, to declare this entire Agreement of Sale null and void and be entitled to the return of the Deposit, plus accrued interest, and following this there shall be no other further rights or obligations by each party to the other. BUYER must furnish this notice to SELLER within the one hundred eighty (180) day period, in order for its notice to be effective. If BUYER does not furnish the notice in the time and manner specified, then this right of cancellation as set forth in this Paragraph 2 shall be deemed to be and is waived and of no further effect and this Agreement of Sale shall remain in full force and effect as to its remaining terms.

3. Condition Precedent to Closing

This Agreement of Sale is contingent upon and subject to BUYER obtaining a direct reduction mortgage with a face amount of THREE HUNDRED NINETY THOUSAND DOLLARS (\$390,000.00) to be secured by Premises, and the six thousand (6,000) square foot strip shopping center to be constructed thereon having an interest rate not to exceed twelve-and-one-half percent (12 1/2%) per

annum plus three (3) points and having a fifteen (15) year term, within thirty (30) days from the date of the issuance of a building permit by Baltimore County, Maryland.

In the event that BUYER is unable to obtain this first mortgage then BUYER may give SELLER written notice that BUYER waives the requirement of such condition precedent, in which event the parties shall proceed to Closing notwithstanding, within thirty (30) days from the date of such notice from BUYER to SELLER. If SELLER is unable to meet the required condition precedent and BUYER does not waive such requirement prior to the date for Closing hereunder, then this Agreement of Sale shall automatically terminate and be cancelled and the Escrow Agent shall return the Deposit to BUYER, whereafter neither party shall have any further liability to or claim against the other by reason of or arising out of this Agreement of Sale.

4. Closing

Subject to the provisions of Paragraphs 2 and 3, Closing shall be held upon the earliest event to occur of (i) two hundred fifty (250) days following the date of SELLER'S execution of this Agreement of Sale, or (ii) sixty (60) days after the issuance of a building permit to BUYER for the construction of a six thousand (6,000) square foot strip shopping center on Land, or earlier, upon the mutual agreement of BUYER and SELLER at the offices of BUYER'S attorney, Brian A. Goldman, 1910 Charles Center South, 36 South Charles Street, Baltimore, Maryland 21201, or his title company, in the City of Baltimore, Maryland, during normal business hours. Time is of the essence. Possession of Premises shall be given to BUYER at Closing.

5. Balance of Purchase Price - Conveyancing

At Closing, BUYER shall pay to SELLER a total sum in cash of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00), less the Deposit of FIVE THOUSAND DOLLARS (\$5,000.00), plus interest, which BUYER shall authorize the Escrow Agent to pay SELLER towards the Purchase Price.

Upon SELLER'S receipt of the payment provided for herein, SELLER shall execute, acknowledge and deliver to BUYER a Deed for the Premises containing covenants of special warranties and further assurances which shall be prepared by BUYER. Title to be good and merchantable, free of all liens, encumbrances, easements, rights-of-way, prescriptive rights, riparian rights, adverse rights or any other cloud on title except for publicly recorded easements for public utilities that can be ascertained from visual inspection of the Premises.

6. Title Defects

In the event that BUYER'S title company or title attorney shall report at or prior to Closing that title to the Premises is not good and merchantable or that BUYER'S title company excepts from insurance coverage at its regular rates any liens, leases, encroachments, encumbrances, easements and restrictions other than those specifically excepted in Paragraph 5, then, and in such event, upon BUYER'S demand at or prior to Closing, SELLER shall take all actions which may be required, at SELLER'S sole expense, to render the title good and merchantable or to eliminate the title exceptions, and Closing hereunder shall be deferred until such time, not to exceed sixty (60) days from the time herein fixed for Closing, as BUYER shall be satisfied that the title is good and merchantable or the title exception has been eliminated.

If SELLER shall be unable to convey good and merchantable title or shall be unable to convey the Premises by such title as shall be insured by the title company at its regular rates, free and clear of all title exceptions except as herein provided, then, and in either of such events, the Escrow Agent shall refund the Deposit to BUYER, and neither party shall have any further obligation or claim against the other.

7. Violations

SELLER, at SELLER'S expense, shall comply with all written notices received by SELLER, or any party in title to Premises, at or prior to Closing of violations of municipal, state or federal laws, statutes, ordinances, orders or requirements, or the orders, judgments or decree of any court of competent

AGREEMENT OF SALE

THIS AGREEMENT OF SALE, made this 17th day of July, 1983, by and between PROSPECT HILL CEMETERY, INC., a Maryland Corporation (sometimes hereinafter referred to as "SELLER"), and URBAN DESIGN & DEVELOPMENT CORPORATION, a Maryland Corporation, (sometimes hereinafter referred to as "BUYER").

WITNESSETH

That SELLER does hereby bargain and sell unto BUYER and the latter does hereby purchase from SELLER all that fee simple parcel of land containing at least twenty thousand (20,000) square feet of land, situate, lying and being in the County of Baltimore, State of Maryland, having at least 147 feet of frontage along York Road and known as 626 York Road, Towson, Maryland, (sometimes hereinafter referred to as "Land"). The Land as more particularly shown on the Schematic Lot Layout by Boender Associates, dated April, 1983, a copy of which is attached hereto as Exhibit "A". Together with all of the owner's right, title and interest, if any there may be, in and to any roads, alleys, or ways abutting the Land. The existing improvements, together with the utilities servicing them, the roadways, walkways, sidewalks, curb cuts and other facilities appurtenant or apart thereof hereinafter referred to as "Improvements". The Land and Improvements are hereinafter collectively referred to as "Premises".

1. Purchase Price and Deposit

(a) The total purchase price shall be ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) to be adjusted as otherwise provided for herein.

(b) BUYER upon executing hereof, has deposited with and paid to Grempler Realty, Inc., Escrow Agent, the sum of FIVE THOUSAND DOLLARS (\$5,000.00) as a Deposit for the total purchase price, the Deposit to be held by the Escrow Agent until Closing, as provided for herein. The Escrow Agent shall place the Deposit in an interest-bearing account or certificate of deposit in a federally insured savings and loan association to be designated by BUYER. Except

PETITIONER'S
EXHIBIT 3

jurisdiction enforcing compliance with any such law, statute, ordinance, order or requirement. The SELLER'S obligations hereunder shall survive Closing.

8. Adjustments

Real property taxes, water rents, sewer service and other utility services, shall be adjusted and apportioned as of Closing and are to be assumed and paid thereafter by BUYER.

Assessments for improvements, including without limiting the generality of the foregoing, sewer and water lines, and storm drainage systems, completed prior to Closing, whether assessment therefor has been levied or not, and whether the assessment, when levied may be payable in a lump sum or over a period of time, shall be paid by SELLER or allowance made therefor at Closing and thereafter assumed and paid by BUYER.

9. Closing Costs

The cost of all documentary stamps, required by law, recordation tax and transfer tax, where required, shall be divided equally by the parties hereto.

10. Construction Permits

SELLER and BUYER agree that BUYER shall conduct and obtain test borings, engineering, architectural, subdivision and construction plans for a six thousand (6,000) square foot strip shopping center, and apply for subdivision, building permits, utility permits and State Roads permits prior to Closing. SELLER and any party in title of premises shall sign any and all applications and forms for said permits upon request by BUYER. In the event this Agreement of Sale is terminated the BUYER shall give to SELLER all engineering and architectural plans for Premises.

11. Risk of Loss

In the event that prior to Closing hereunder, any part of Premises shall be condemned or placed under threat of condemnation by any public or quasi-public authority, or in the event that an offer for a sale in lieu thereof is received, then and in any such event, BUYER shall have the right, within thirty (30) days after receipt of notice from SELLER of the condemnation or threat of

condemnation or offer for sale, to rescind this Agreement of Sale. In the event BUYER elects not to rescind this Agreement of Sale, SELLER waives any right to participate in or receive compensation from said proceedings or sale and in said event SELLER shall receive the full consideration provided for in this Agreement of Sale. SELLER shall promptly notify the BUYER of any threat of condemnation.

Except as herein provided, the Premises shall be held at the risk of SELLER until Closing. Within thirty (30) days after receipt of any notice provided for in this Paragraph, BUYER shall exercise its right to rescind, if at all, by sending written notice to SELLER, in which event, the Escrow Agent shall refund the Deposit, plus accrued interest, to BUYER, after which this Agreement of Sale shall terminate and have no further force or effect.

SELLER shall cause all liability, fire and other casualty policies insuring the Premises to be endorsed immediately to protect all parties hereto as their interest may appear, and shall continue such insurance during the life of this Agreement of Sale. SELLER will promptly furnish BUYER with a copy of this endorsement. In the event it shall be determined by BUYER that the Premises is inadequately insured by SELLER, the BUYER shall have the right at BUYER'S option and expense, to obtain such insurance, or additional insurance as shall be satisfactory to BUYER.

12. BUYER'S Liability

In the event of default by BUYER in completing Closing, BUYER'S liability hereunder is hereby limited to the forfeiture of the Deposit referred to in Paragraph 1 above, and forfeiture of all engineering and architectural plans for Premises, whereafter SELLER shall release and relinquish all claims and rights against BUYER, by reason of or arising out of this Agreement of Sale.

13. Brokerage

BUYER and SELLER mutually covenant and warrant, each to the other, that they did not have any negotiations or dealings in connection with this transaction with any brokers or finders other than Grempler Realty, Inc. and

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Premises have been and will be complied with by SELLER at all times on or prior to Closing.

(5) Neither this Agreement of Sale nor anything provided to be done thereunder or in connection herewith, including but not limited to, the sale of Premises or the execution and delivery of the Deed violates or shall violate any contract, agreement or instrument to which SELLER is a party or which affects the Premises or any part thereof.

(6) SELLER is not, and on the date of Closing, will not be in default in respect of any of its obligations or liabilities pertaining to Premises; there is not, and on the date of Closing, will not be any state of facts or circumstances or condition or event which after, notice or lapse of time or both, would constitute or result in any such default.

(7) SELLER has full power and authority to convey the Premises being sold hereunder, free and clear of liens and encumbrances except as specifically stated herein, and SELLER will move any graves required to be moved at its sole cost and expense.

(8) The execution and delivery of all instruments and documents required in order to consummate the transaction provided for herein by SELLER have been and will have been at the time of Closing duly authorized by all necessary action, and such instruments and documents will, when executed and delivered by SELLER, constitute the valid and binding obligation of the party or parties executing and delivering the same in accordance with their terms.

17. Access

From the date hereof until Closing, BUYER, its agents, engineers and architects, shall have full and complete access to all of Premises.

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Lancelotta and Associates. SELLER authorizes and directs the party making settlement to deduct the brokerage fee from the proceeds of sale and pay same to Grempler Realty, Inc. and Lancelotta and Associates, pursuant to a separate Agreement between SELLER and Lancelotta and Associates. Each party shall save, defend and hold harmless the other party from any claim for brokerage commissions from any other broker than the aforementioned.

14. Notices

All notices, demands and requests hereunder shall be in writing and shall be deemed to have been properly given if hand delivered or if sent by United States registered or certified mail, postage prepaid, addressed to BUYER, c/o Brian A. Goldman, Esquire, 1910 Charles Center South, 36 South Charles Street, Baltimore, Maryland 21201, and to SELLER, c/o Phineas S. Dixon, Esquire, 908 Frederick Road, Catonsville, Maryland 21228, or to such other address as either of the parties may designate from time to time by giving written notice as required herein. Notices, demands and requests given in the manner aforesaid shall be deemed sufficiently served given for all purposes hereunder at the time such notices, demands or requests shall be personally delivered or shall be deposited in any post office or branch post office regularly maintained by the United States Government.

15. Escrow Agent

The duties of the Escrow Agent hereunder are as follows:

(a) To hold the Deposit paid pursuant to Paragraph 1 in an escrow account in any federally insured savings and loan association, as designated by BUYER, until Closing.

(b) At Closing, to pay the Deposit to SELLER.

(c) To refund the Deposit to BUYER in the event that BUYER exercises its right under any provision of this Agreement of Sale to rescind and cancel this Agreement of Sale or in the event this Agreement is automatically terminated by its own terms.

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18. Survival

All warranties, representations, covenants, obligations and agreements contained in this Agreement of Sale shall survive the execution and delivery of this Agreement of Sale and of any and all documents or instruments executed, delivered or recorded in connection herewith and shall survive the Closing hereunder and any and all performances in accordance with this Agreement of Sale and shall not merge therein. Neither party has made any representation or warranty to the other in connection with the transactions herein contemplated except as contained in this Agreement of Sale or any other instrument, agreement or writing provided for or contemplated by this Agreement of Sale.

19. Further Instruments

SELLER will, whenever and as often as it shall be requested so to do by BUYER, execute, acknowledge and deliver or cause to be executed, acknowledged or delivered, any and all such further conveyances, assignments, confirmations, satisfactions, releases, instruments of further assurances, approvals, consents and any and all such further instruments and documents as may be necessary, expedient or proper in the reasonable opinion of BUYER'S title company used in this transaction in order to complete any and all conveyances, transfers, sales and assignments provided for herein.

20. Assignment of Agreement

It is understood and agreed that prior to Closing, SELLER may, at its option, assign its interest hereunder to a general or limited partnership, to be formed and there shall be no liability of BUYER as to this Agreement of Sale from and after its assignment of this Agreement, except as a possible general partner of the aforesaid general or limited partnership.

21. Governing Law

It is the intent of the parties hereto that all questions with respect to the construction of this Agreement of Sale and the rights and liabilities of the parties shall be determined in accordance with the provisions of the laws of the State of Maryland.

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(d) If this Agreement of Sale is cancelled or terminated by the mutual agreement of the parties and the Escrow Agent shall be unable to determine to whom the Deposit shall be paid, then and in any such event, the Escrow Agent shall pay the Deposit in accordance with joint written instructions of both parties. In the event that such written instructions shall not be received by the Escrow Agent within ten (10) days after the Escrow Agent has served a written request for instructions upon the parties, then and in that event the Escrow Agent shall file an interpleader action in the appropriate Nisi Prius Court in Baltimore County, Maryland, and thereafter be discharged of any obligations in connection with this Agreement, except for fraud or gross negligence.

(e) If costs or expenses are incurred by the Escrow Agent because of litigation or dispute between the parties arising out of holding the Deposit in escrow, the Escrow Agent may reimburse itself out of the Deposit for any reasonable costs and expenses. Except for such costs or expenses incurred by the Escrow Agent, no fee or charge shall be due or payable to the Escrow Agent for its services as escrow holder only. This provision shall not limit in any way commissions or any fees or charges for services rendered by the Escrow Agent in any capacity other than as escrow holder of the deposit created pursuant to this Agreement.

(f) By joining herein the Escrow Agent undertakes only to perform the duties and obligations imposed upon the Escrow Agent under the terms of this Agreement and expressly does not undertake to perform any of the other covenants, terms and provisions incumbent upon SELLER and BUYER hereunder.

16. Warranties and Representations

(a) In order to induce BUYER to purchase the Premises, SELLER hereby makes the following representations and warranties to BUYER:

(i) SELLER, or any party currently in title of Premises, has not received written notice from any governmental or quasi-governmental body or agency or from any other person or entity with respect to and does not know of:

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22. Date of Final Execution

The offer which this Agreement of Sale constitutes, shall cease and be of no further force and effect if it is not accepted by SELLER, and a copy thereof delivered to BUYER on or before 5:00 o'clock P.M., July 14, 1983.

23. Entire Agreement

This Agreement of Sale constitutes the sole, final and entire agreement and understanding between the parties hereto, and they shall not be bound by any terms, conditions, statements or representations, oral or written, not contained herein. Any modification hereof shall not be binding unless subscribed by the parties hereto.

24. Binding Effect

This Agreement of Sale (which shall be freely assignable by BUYER) shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns. The provisions hereof shall survive the delivery of the Deed and shall not be merged therein.

25. Counterparts

This Agreement of Sale may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement of Sale has been duly executed, attested, witnessed, sealed and delivered as of the day and year first above written.

ATTEST:

PROSPECT HILL CEMETERY, INC.

David B. Binkley
Secretary

Charles P. Binkley (SEAL)
President

"SELLER"

(signatures continued on next page)

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- (i) any actual or threatened taking of the Premises or any portion thereof for any public or quasi-public purpose by the exercise of the right of condemnation or eminent domain; or
- (ii) any pending special assessment or increase in assessment with respect to the Premises or any portion thereof.

(2) There are no suits, actions or proceedings pending or to the knowledge of SELLER, reasonably threatened against or affecting SELLER, or the Premises before or by any court or administrative agency or officer, and there are no labor disputes pending or to the knowledge of SELLER reasonably threatened, which suits, actions or proceedings, if adversely determined or, in the case of labor disputes, which if continued, might have a materially adverse effect upon Premises, and SELLER is not in default with respect to any judgment, order, writ, injunction, rule or regulation of any court or governmental agency or office to which it may be subject in any material way affecting Premises or the transaction provided for herein.

(3) The Land is zoned BR-CSA, there is no plan or study in effect by any governmental authority or agency or any non-governmental person or entity which in any way would materially affect the use or zoning of the Land for the construction of a strip shopping center; there is no existing, proposed or contemplated plan to widen, modify or realign any street or highway or any existing, proposed or contemplated eminent domain proceeding that would materially affect the use of the Premises in any way whatsoever; none of the title exceptions described in Paragraph 5 will interfere with the use of the Land for the construction of a six thousand (6,000) square foot strip shopping center.

(4) All laws, ordinances, rules and regulations of any government or agency, body or subdivision thereof having any bearing on the

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URBAN DESIGN & DEVELOPMENT, INC.

Bridget M. Quinn
Bridget M. Quinn, Secretary

Brian A. Goldman (SEAL)
Brian A. Goldman, President

"BUYER"

WITH RESPECT TO PARAGRAPHS 13 AND 15 ONLY:

ATTEST:

GREMPLER REALTY, INC.

Ralph P. Wingate

Mary Beth Wingate (SEAL)

"BROKER & ESCROW AGENT"

WITH RESPECT TO PARAGRAPH 13 ONLY:

WITNESS:

LANCELOTTA AND ASSOCIATES

Charles P. Binkley

James P. Binkley (SEAL)

"BROKER"

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